

HOUSE BILL No. 1278

DIGEST OF INTRODUCED BILL

Citations Affected: IC 1-1-3.5-5; IC 5-10.3-11-1; IC 6-7-1; IC 6-7-2-17; IC 12-7-2-91; IC 12-15-41; IC 12-17-12-7; IC 12-22-2-11; IC 12-29-2-14; IC 36-3-1-11; IC 36-3-7-2; IC 36-10-8-11; IC 36-10-9-9.

Synopsis: Medicaid payments for tobacco related diseases. Establishes the tobacco related diseases fund within the state Medicaid program to pay the state's share of Medicaid payments for the treatment of tobacco related diseases. Provides that money in the fund consists of cigarette taxes and tobacco products taxes collected by the state. (Current law provides that these taxes are deposited in the cigarette tax fund, the mental health centers fund, the state general fund, and the pension relief fund.) Requires that money in the fund be used in its entirety during each state fiscal year before the state's share of Medicaid payments for the treatment of tobacco related diseases may be taken from the Medicaid account within the state general fund. Requires a
(Continued next page)

Effective: July 1, 1999.

Buck

January 11, 1999, read first time and referred to Committee on Ways and Means.



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Digest Continued

health care provider to inform the office of Medicaid policy and planning when the provider treats an individual who is enrolled in the Medicaid program for a tobacco related disease. Requires the office of Medicaid policy and planning, with the assistance of the state department of health, to establish a list of tobacco related diseases. Repeals provisions specifying certain allocations of funds collected by the cigarette tax. Makes conforming amendments.

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Introduced

First Regular Session 111th General Assembly (1999)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

HOUSE BILL No. 1278

A BILL FOR AN ACT to amend the Indiana Code concerning tobacco and tobacco products.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 1-1-3.5-5 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 5. (a) The governor
3 shall forward a copy of the executive order issued under section 3 of
4 this chapter to:
5 (1) the director of the Indiana state library;
6 (2) the election division; and
7 (3) the Indiana Register.
8 (b) The director of the Indiana state library, or an employee of the
9 Indiana state library designated by the director to supervise a state data
10 center established under IC 4-23-7.1, shall notify each state agency
11 using population counts as a basis for the distribution of funds or
12 services of the effective date of the tabulation of population or
13 corrected population count.
14 (c) The agencies that the director of the Indiana state library must
15 notify under subsection (b) include the following:



(1) The auditor of state, for distribution of money from the following:

(A) ~~The cigarette tax fund in accordance with IC 6-7-1-30.1.~~

~~(B)~~ Excise tax revenue allocated under IC 7.1-4-7-8.

~~(C)~~ (B) The local road and street account in accordance with IC 8-14-2-4.

~~(D)~~ (C) The repayment of loans from the Indiana University permanent endowment funds under IC 21-7-4.

(2) The board of trustees of Ivy Tech State College, for the board's division of Indiana into service regions under IC 20-12-61-9.

(3) The department of commerce, for the distribution of money from the following:

(A) The rural development fund under IC 4-4-9.

(B) The growth investment program fund under IC 4-4-20.

(4) The division of disability, aging, and rehabilitative services, for establishing priorities for community residential facilities under IC 12-11-1-9 and IC 12-28-4-12.

(5) The department of state revenue, for distribution of money from the motor vehicle highway account fund under IC 8-14-1-3.

(6) The enterprise zone board, for the evaluation of enterprise zone applications under IC 4-4-6.1.

(7) The Indiana alcoholic beverage commission, for the issuance of permits under IC 7.1.

(8) The Indiana library and historical board, for distribution of money to eligible public library districts under IC 4-23-7.1-29.

(9) The state board of accounts, for calculating the state share of salaries paid under IC 33-13-12, IC 33-14-7, and IC 33-15-26.

SECTION 2. IC 5-10.3-11-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1. There is created within the public employees' retirement fund a separate account known as the pension relief fund. This fund is administered by the board of trustees of the public employees' retirement fund, referred to as the "state board" in this chapter. The pension relief fund consists of revenues received under ~~IC 6-7-1-28.1(4)~~, IC 7.1-4-12-1, any appropriations to the fund, and earnings on these revenues.

SECTION 3. IC 6-7-1-28.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 28.1. The taxes, registration fees, fines, or penalties collected under this chapter shall be deposited in the following manner:

~~(1) Seven thirty-firsts (7/31) of the money shall be deposited in a fund to be known as the cigarette tax fund.~~

~~(2) One thirty-first (1/31) of the money shall be deposited in a~~



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fund to be known as the mental health centers fund.

(3) Fourteen thirty-firsts (14/31) of the money shall be deposited in the state general fund.

(4) Nine thirty-firsts (9/31) of the money shall be deposited into the pension relief fund established in IC 5-10.3-11.

The money in the cigarette tax fund; the mental health centers fund; or the pension relief fund at the end of a fiscal year does not revert to the state general fund. However, if in any fiscal year, the amount allocated to a fund under subdivision (1) or (2) is less than the amount received in fiscal year 1977, then that fund shall be credited with the difference between the amount allocated and the amount received in fiscal year 1977, and the allocation for the fiscal year to the fund under subdivision (3) shall be reduced by the amount of that difference. **tobacco related diseases fund established under IC 12-15-41.**

SECTION 4. IC 6-7-2-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 17. The department shall deposit all revenue collected under this chapter as provided in IC 6-7-1-28.1. **in the tobacco related diseases fund established under IC 12-15-41.**

SECTION 5. IC 12-7-2-91 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 91. "Fund" means the following:

(1) For purposes of IC 12-12-1-9, the fund described in IC 12-12-1-9.

(2) For purposes of IC 12-13-8, the meaning set forth in IC 12-13-8-1.

(3) For purposes of IC 12-15-20, the meaning set forth in IC 12-15-20-1.

(4) For purposes of IC 12-15-41, the meaning set forth in IC 12-15-41-1.

~~(4)~~ (5) For purposes of IC 12-17-12, the meaning set forth in IC 12-17-12-4.

~~(5)~~ (6) For purposes of IC 12-18-4, the meaning set forth in IC 12-18-4-1.

~~(6)~~ (7) For purposes of IC 12-18-5, the meaning set forth in IC 12-18-5-1.

~~(7)~~ (8) For purposes of IC 12-19-3, the meaning set forth in IC 12-19-3-1.

~~(8)~~ (9) For purposes of IC 12-19-4, the meaning set forth in IC 12-19-4-1.

~~(9)~~ (10) For purposes of IC 12-19-7, the meaning set forth in IC 12-19-7-2.

~~(10)~~ (11) For purposes of IC 12-23-2, the meaning set forth in



1 IC 12-23-2-1.

2 ~~(11)~~ **(12)** For purposes of IC 12-24-6, the meaning set forth in
3 IC 12-24-6-1.

4 ~~(12)~~ **(13)** For purposes of IC 12-24-14, the meaning set forth in
5 IC 12-24-14-1.

6 ~~(13)~~ **(14)** For purposes of IC 12-30-7, the meaning set forth in
7 IC 12-30-7-3.

8 SECTION 6. IC 12-15-41 IS ADDED TO THE INDIANA CODE
9 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
10 JULY 1, 1999]:

11 **Chapter 41. Tobacco Related Diseases Fund**

12 **Sec. 1.** As used in this chapter, "fund" means the tobacco
13 related diseases fund established by this chapter.

14 **Sec. 2.** The tobacco related diseases fund is established to pay
15 the state's share of Medicaid payments for the treatment of tobacco
16 related diseases.

17 **Sec. 3.** The expenses of administering the fund shall be paid
18 from money in the fund.

19 **Sec. 4.** Money in the fund consists of cigarette taxes collected
20 under IC 6-7-1 and tobacco products taxes collected under
21 IC 6-7-2.

22 **Sec. 5. (a)** The treasurer of state shall invest the money in the
23 fund not currently needed to meet the obligations of the fund in the
24 same manner as other public funds may be invested.

25 **(b)** Interest that accrues from investments shall be deposited in
26 the fund.

27 **Sec. 6.** The office shall maintain records that show the amount
28 of money in the fund and the amount of investment earnings on
29 that amount.

30 **Sec. 7.** Money in the fund at the end of a state fiscal year does
31 not revert to the state general fund.

32 **Sec. 8.** Money in the fund may only be used for the purposes
33 listed in section 2 of this chapter to the extent that federal financial
34 participation under Medicaid is available to match the state
35 money.

36 **Sec. 9.** During each state fiscal year, all money in the fund must
37 be used in its entirety before money in the Medicaid account within
38 the state general fund may be used for the purposes described in
39 section 2 of this chapter.

40 **Sec. 10.** A provider shall certify to the office when the provider
41 treats an individual who is enrolled in the Medicaid program for
42 a tobacco related disease.



1 **Sec. 11. The office, with the assistance of the state department**
 2 **of health, shall establish, maintain, and update as necessary a list**
 3 **of tobacco related diseases for use in carrying out the purposes of**
 4 **this chapter.**

5 SECTION 7. IC 12-17-12-7 IS AMENDED TO READ AS
 6 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 7. The school age child
 7 care project fund is established. ~~The fund consists of money~~
 8 ~~appropriated under IC 6-7-1-30.2(c).~~ The purpose of the fund is to
 9 provide a source from which state grants may be made to school
 10 corporations or nonprofit organizations that establish and operate
 11 school age child care programs in Indiana. The division shall
 12 administer the fund.

13 SECTION 8. IC 12-22-2-11 IS AMENDED TO READ AS
 14 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 11. (a) An entity may
 15 not:

16 (1) operate a program described in IC 12-22-3; or

17 (2) hold itself out as operating;

18 (A) a program described in IC 12-22-3; or

19 (B) a group home for individuals who are mentally ill;

20 unless the entity is licensed or certified by the division of mental
 21 health.

22 (b) The division of mental health shall investigate a report of:

23 (1) an unlicensed facility housing a community residential
 24 program described in section 3(1), 3(2), and 3(3) of this chapter;

25 (2) an uncertified operator of a community residential program
 26 described in section 3(1), 3(2), and 3(3) of this chapter; or

27 (3) a licensed or certified entity's noncompliance with this article;

28 and report the division's findings to the attorney general.

29 (c) The attorney general may do the following:

30 (1) Seek the issuance of a search warrant to assist in an
 31 investigation under this section.

32 (2) File an action for injunctive relief to stop the operation of a
 33 facility described in subsection (b) if there is reasonable cause to
 34 believe that:

35 (A) the facility or the operator community residential program
 36 described in subsection (b) is operating without a required
 37 license or certification; or

38 (B) a licensed or certified entity's actions or omissions create
 39 an immediate danger of serious bodily injury to a mentally ill
 40 individual or an imminent danger to the health of a mentally
 41 ill individual.

42 (3) Seek in a civil action a civil penalty of not more than one

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hundred dollars (\$100) a day for each day a facility is operating:

(A) without a license or certification required by law; or

(B) with a license or certification required under this chapter, but is not in compliance with this article, IC 12-21-2-3, or rules adopted under this article or IC 12-21-2-3.

(d) The division of mental health may provide for the removal of mentally ill individuals from facilities for the mentally ill described in subsection (c).

(e) There must be an opportunity for an informal meeting with the division of mental health after injunctive relief is ordered under this section.

~~(f) The civil penalties collected under this section must be deposited in the mental health centers fund (IC 6-7-1-32.1).~~

SECTION 9. IC 12-29-2-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 14. (a) An entity may not:

(1) hold itself out to be a community mental health center; or

(2) use the term "community mental health center";

unless the entity is certified by the division of mental health.

(b) The division of mental health shall investigate a report that an entity is operating as a community mental health center without the approval of the division of mental health and report the division's findings to the attorney general.

(c) Upon receiving a report made under subsection (b), the attorney general may do the following:

(1) Seek the issuance of a search warrant to assist in the investigation.

(2) File an action for injunctive relief to stop the operation of the entity that is the subject of the report if there is reasonable cause to believe that the entity is operating without the required approval of the division of mental health.

(3) File an action for injunctive relief to stop the entity that is the subject of the report from using the term "community mental health center".

(4) Seek in a civil action a civil penalty of not more than one hundred dollars (\$100) a day for each day an entity is operating without the required approval of the division of mental health.

(d) An opportunity for an informal meeting with the division of mental health must be provided after the injunctive relief is ordered.

~~(e) The civil penalties collected under this section must be deposited in the mental health centers fund (IC 6-7-1-32.1).~~

SECTION 10. IC 36-3-1-11 IS AMENDED TO READ AS



FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 11. Political subdivisions in the county are not affected when a first class city becomes a consolidated city, except to the extent that this title limits their functions or transfers them to the consolidated city. Such a political subdivision continues to have:

- (1) the power to levy and collect property taxes in furtherance of functions not transferred to the consolidated city; and
- (2) if applicable, the power to adopt and enforce ordinances prescribing a penalty for violation.

In addition, an excluded city or included town continues to have the right to receive distributions of revenues collected by the state, in the manner prescribed by statute, including distributions from the motor vehicle highway account, ~~the cigarette tax fund~~, alcoholic beverage fees, and other tax revenues.

SECTION 11. IC 36-3-7-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2. The consolidated city is entitled to receive the following monies, as they become available, to use in carrying out the powers, duties, and obligations of the consolidated city and its special service districts and special taxing districts:

- (1) Revenues from the levies of taxes or special taxes on property or otherwise as prescribed by law.
- (2) The aggregate of allocated amounts of money collected and available for distribution to the consolidated city and the county in the motor vehicle highway account as prescribed by IC 8-14-1.
- (3) All public money, whether held in general accounts, special accounts, trusts, or otherwise, or receivable by the county or the consolidated city, or its departments, special taxing districts, or special service districts, that is budgeted or made available for functions conferred on the consolidated city or its departments or districts.
- (4) All money that becomes available from the federal government or any federal agency organized for the disbursement or allocation of federal monies in furtherance of powers conferred on the consolidated city or its departments or districts.
- (5) All money appropriated in furtherance of the powers conferred on the consolidated city.
- (6) All money received as proceeds from the sale of bonds by the consolidated city or its special taxing districts.
- (7) All parking fees and mass transportation revenues collected by the department of transportation under IC 36-9.
- (8) All money received by the consolidated city from the exercise



of its powers or control and use of its property.

(9) ~~All money in the cigarette tax fund available for distribution to the consolidated city or the department of transportation as prescribed by IC 6-7-1-30.1.~~

~~(10)~~ The aggregate of allocated amounts of money collected and available for distribution to the consolidated city and the county as prescribed by IC 7.1-4-7 pertaining to alcoholic beverage fees and taxes.

~~(11)~~ **(10)** Any other money available for distribution by the state under any statute, according to that statute.

SECTION 12. IC 36-10-8-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 11. (a) The treasurer of the board is the official custodian of all funds and assets of the board and is responsible for their safeguarding and accounting. He shall give bond for the faithful performance and discharge of all duties required of him by law in the amount and with surety and other conditions that may be prescribed and approved by the board. All funds and assets in the capital improvement fund and the capital improvement bond fund created by this chapter and all other funds, assets, and tax revenues held, collected, or received by the treasurer of the county for the use of the board shall be promptly remitted and paid over by him to the treasurer of the board, who shall issue receipts for them.

(b) The treasurer of the board shall deposit all money coming into his hands as required by this chapter ~~and IC 6-7-1-30.1~~, and in accordance with general statutes relating to the deposit of public funds. Money so deposited may be invested and reinvested by the treasurer in accordance with IC 5-13 and in securities that the board specifically directs. All interest and other income earned on investments becomes a part of the particular fund from which the money was invested. All funds invested and fully safeguarded and secured as provided in IC 5-13-9 are exempt from assessments under IC 5-13-12.

(c) The board shall appoint a controller to act as the auditor and assistant treasurer of the board. He shall serve as the official custodian of all books of account and other financial records of the board and has the same powers and duties as the treasurer of the board or the lesser powers and duties that the board prescribes. The controller, and any other employee or member of the board authorized to receive, collect, or expend money, shall give bond for the faithful performance and discharge of all duties required of him in the amount and with surety and other conditions that may be prescribed and approved by the board. He shall keep an accurate account of all money due the board and of all money received, invested, and disbursed in accordance with generally

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1 recognized governmental accounting principles and procedure. All
 2 accounting forms and records shall be prescribed or approved by the
 3 state board of accounts.

4 (d) The controller shall issue all warrants for the payment of money
 5 from the funds of the board in accordance with procedures prescribed
 6 by the board, but a warrant may not be issued for the payment of a
 7 claim until an itemized and verified statement of the claim has been
 8 filed with the controller, who may require evidence that all amounts
 9 claimed are justly due. All warrants shall be countersigned by the
 10 treasurer of the board or by the executive manager. Payroll and similar
 11 warrants may be executed with facsimile signatures.

12 (e) If there are bonds outstanding issued under this chapter, the
 13 controller shall deposit with the paying agent or officer within a
 14 reasonable period before the date that any principal or interest becomes
 15 due sufficient money for the payment of the principal and interest on
 16 the due dates.

17 (f) At least annually the controller shall submit to the board a report
 18 of his accounts exhibiting the revenues, receipts, and disbursements
 19 and the sources from which the revenues and receipts were derived and
 20 the purpose and manner in which they were disbursed. The board may
 21 require that the report be prepared by an independent certified public
 22 accountant designated by the board. The handling and expenditure of
 23 funds is subject to audit and supervision by the state board of accounts.

24 SECTION 13. IC 36-10-9-9 IS AMENDED TO READ AS
 25 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 9. (a) The treasurer of
 26 the board is the official custodian of all funds and assets of the board
 27 and is responsible for their safeguarding and accounting. He shall give
 28 bond for the faithful performance and discharge of all duties required
 29 of him by law in the amount and with surety and other conditions that
 30 may be prescribed and approved by the board. All funds and assets in
 31 the capital improvement fund and the capital improvement bond fund
 32 created by this chapter and all other funds, assets, and tax revenues
 33 held, collected, or received by the treasurer of the county for the use of
 34 the board shall be promptly remitted and paid over by him to the
 35 treasurer of the board, who shall issue receipts for them.

36 (b) The treasurer of the board shall deposit all funds coming into his
 37 hands as required by this chapter and ~~by IC 6-7-1-30.1, and~~ in
 38 accordance with IC 5-13. Money so deposited may be invested and
 39 reinvested by the treasurer in accordance with general statutes relating
 40 to the investment of public funds and in securities that the board
 41 specifically directs. All interest and other income earned on
 42 investments becomes a part of the particular fund from which the

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1 money was invested, except as provided in a resolution, ordinance, or
 2 trust agreement providing for the issuance of bonds or notes. All funds
 3 invested in deposit accounts as provided in IC 5-13-9 must be insured
 4 under IC 5-13-12.

5 (c) The board shall appoint a controller to act as the auditor and
 6 assistant treasurer of the board. He shall serve as the official custodian
 7 of all books of account and other financial records of the board and has
 8 the same powers and duties as the treasurer of the board or the lesser
 9 powers and duties that the board prescribes. The controller, and any
 10 other employee or member of the board authorized to receive, collect,
 11 or expend money, shall give bond for the faithful performance and
 12 discharge of all duties required of him in the amount and with surety
 13 and other conditions that may be prescribed and approved by the board.
 14 He shall keep an accurate account of all money due the board and of all
 15 money received, invested, and disbursed in accordance with generally
 16 recognized governmental accounting principles and procedure. All
 17 accounting forms and records shall be prescribed or approved by the
 18 state board of accounts.

19 (d) The controller shall issue all warrants for the payment of money
 20 from the funds of the board in accordance with procedures prescribed
 21 by the board, but a warrant may not be issued for the payment of a
 22 claim until an itemized and verified statement of the claim has been
 23 filed with the controller, who may require evidence that all amounts
 24 claimed are justly due. All warrants shall be countersigned by the
 25 treasurer of the board or by the executive manager. Warrants may be
 26 executed with facsimile signatures.

27 (e) If there are bonds or notes outstanding issued under this chapter,
 28 the controller shall deposit with the paying agent or other paying officer
 29 within a reasonable period before the date that any principal or interest
 30 becomes due sufficient money for the payment of the principal and
 31 interest on the due dates. The controller shall make the deposit with
 32 money from the sources provided in this chapter, and he shall make the
 33 deposit in an amount that, together with other money available for the
 34 payment of the principal and interest, is sufficient to make the payment.
 35 In addition, the controller shall make other deposits for the bonds and
 36 notes as is required by this chapter or by the resolutions, ordinances, or
 37 trust agreements under which the bonds or notes are issued.

38 (f) The controller shall submit to the board at least annually a report
 39 of his accounts exhibiting the revenues, receipts, and disbursements
 40 and the sources from which the revenues and receipts were derived and
 41 the purpose and manner in which they were disbursed. The board may
 42 require that the report be prepared by an independent certified public

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1 accountant designated by the board. The handling and expenditure of
2 funds is subject to audit and supervision by the state board of accounts.
3 SECTION 14. THE FOLLOWING ARE REPEALED [EFFECTIVE
4 JULY 1, 1999]: IC 6-7-1-29.1; IC 6-7-1-30.1; IC 6-7-1-30.2;
5 IC 6-7-1-30.5; IC 6-7-1-31.1; IC 6-7-1-32.1.

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